

REMARKS

Applicant appreciates the thoroughness with which the Examiner has examined the above-identified application. Reconsideration is requested in view of the amendments above and the remarks below.

Rejection under 35 USC § 112, second paragraph

Claim 1 has been rejected under 35 USC § 112, second paragraph for having no antecedent basis for the limitation "downloading the software." Although applicant believes that proper antecedent basis had been provided, this claim language has been amended, and now reads, "downloading said software from the network computer program storage device" and refers to the software in the earlier stated step "providing a network computer having access to a program storage device containing software" (A similar amendment has been made to the other independent claims 9, 13, 18, 19 and 20.) Applicant submits that the claim conforms to 35 USC § 112, second paragraph.

Rejection under 35 USC § 102

Claims 1-7 and 9-20 stand rejected under 35 USC § 102(b) as being anticipated by Corbin U.S. Patent No. 5,138,712. Applicant respectfully traverses the rejection and requests reconsideration.

The present invention is directed to a method and system, in the form of a computer program product having source code storable on a program storage device, to install licensed software on a client or end user's personal computer by a scripted network installation routine and to verify that the end user has a valid license to install the software. As stated in the specification on page 9, lines 10-12, the software to be downloaded preferably comprises programs to be executed by the end user computers or other software such as database information. Applicant has amended independent claims 1, 18, 19 and 20 to specify that the software on the network computer program storage device and which is downloaded is software selected from the group consisting of programs to be executed by the end user's computer and database information. No new matter has been added. Claim 3, dependent on claim 1, and independent claim 9 continues to be directed to software that comprises programs for execution on end user computers. Independent claim 13 continues to be directed to software that comprises damaged executable software program for execution on end user computers. Thus, each and every independent claim is directed to verifying licensing and downloading from a network computer software which comprises programs to be executed by the end user's computer or database information.

In contrast to applicant's claimed invention, the Corbin patent teaches a system in which, at the time the license is checked, the executable software applications to be used are already present on the computer storage device on which they are to be executed. See, Corbin column 6, lines 35-56. ("The licensing library 24 is a set of library routines which enable the application 26 to request licensing service from the license server 20. ...

The application is installed and linked to the licensing library using standard operating system utilities of the agent executing the licensing library and the application.”) When the already-installed application is to be executed, it is a license token, and not the application, which is downloaded from the license server. See, Corbin Fig. 3 and column 7, lines 46 to column 8, line 25. (“Applications 41, 42 and 43 are shown requesting licensing service from the license server 44. When a customer purchases a license for an application, ... the software vendor creates a license token with a license production tool, and delivers the license token to the customer’s network administrator. ... The license sever is now ready to entertain requests from application 41, 42 and 43 for a license to use the application corresponding to token 46 as well as other applications represented in database 46.”)

Applicant’s claimed invention is patentably distinct from, and not anticipated by or obvious from Corbin since applicant here downloads not a license token, but instead the actual software consisting of programs to be executed by the end user’s computer and database information (claims 1, 18, 19 and 20), programs for execution on end user computers (claims 3 and 9), or an executable software program to replace a damaged executable software program for execution on end user computers (claim 13). Corbin’s download of only a licensing token does not disclose or suggest downloading the executable software program or database to which applicant’s invention is directed. Since Corbin’s license token system begins with the applications loaded in the database employed by the user, Corbin would teach away from applicant’s invention, which begins

with the executable program or database present on a network computer program storage device, and subsequently installs the downloaded executable program or database onto the end user computer program storage device. Accordingly, applicant submits that claims 1-7 and 9-20 are both novel and not obvious from Corbin.

Rejection under 35 USC § 103

Claim 8 stands rejected under 35 USC § 103(a) as being obvious from Corbin in view of Bartholomew U.S. Patent No. 6,202,209. Applicant's claim 8, dependent on claim 1, specifies that the end user computer program storage device contains a damaged version of the software to be downloaded, and that the installation of said software corrects the damaged software. For the reasons discussed above in connection with claim 9, Corbin download of only a license token to an already-installed software application does not disclose or suggest applicant's claimed downloading of the entire executable software program to replace a damaged version of the executable software. Bartholomew is directed to a PCMCIA personal information device, and not to downloading of licensed software. Bartholomew's disclosure does not correct the deficiency of the main reference, Corbin, and therefore the hypothetical combination does not arrive at applicant's invention as specified in claim 8.

It is respectfully submitted that the application has now been brought into a condition where allowance of the entire case is proper. Reconsideration and issuance of a notice of allowance are respectfully solicited. Should the Examiner not find the claims to

be allowable, applicant's attorney respectfully requests that the Examiner call the undersigned to clarify any issue and/or to place the case in condition for allowance.

Respectfully submitted,




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